

# Attachment 7



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,143	10/13/2006	Doris Hjorth Hapsen	133630-0003	2276

  

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EXAMINER	
SIGLER, JAY R	

  

ART UNIT	PAPER NUMBER
4111	

  

NOTIFICATION DATE	DELIVERY MODE
12/12/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ball@butzel.com  
patent@butzel.com  
burns@butzel.com

**RECEIVED**  
BUTZEL LONG

NOV 20 2008

RESPONSE DUE:

Response to OA 02-20-08

DOCKET 1 GAB DOCKET 2 oldy date

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/553,143	HANSEN, DORIS HJORTH	
	Examiner	Art Unit	
	JAY R. SIGLER	4111	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 13 October 2006.

2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-7 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-4 and 7 is/are rejected.

7) ☒ Claim(s) 5 and 6 is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☒ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 14 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☒ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>14 October 2005</u> .	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application 6) <input type="checkbox"/> Other: _____.
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## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Suture band having a locking mechanism with wedging means.

### *Claim Objections*

2. Claims 5 and 6 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5 and 6 have not been further treated on the merits.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Golds (U.S. Patent 5,356,417).
  - a. Concerning claim 1, Golds teaches **a suture band device (10) comprising an elongated flexible band (12) having first and second ends, a needle (46) attached to the first end of the band, a buckle (14) attached proximate the second end of the band for receiving and locking the band**

(see Abstract), characterized in that the buckle comprises a locking mechanism (16 and 18) which enables the band to be locked at any point along its length (col. 5, ll. 57-63; embodied by the strap tightened to desired tension and Fig. 1-4) and in that the locking mechanism comprises a wedging means (18).

b. Concerning claim 2, the locking mechanism substantially prevents retrograde movement of the band through the buckle (col. 5, ll. 67-68; embodied by teeth 28 preventing slippage of the strap in the housing).

c. Concerning claim 7, Golds teaches a method of approximating bone tissue comprising encircling said tissue with a suture band device as defined in paragraph 4(a) above, threading a buckle of the suture banding device with a band of the suture banding device, and constricting the device around the bone tissue (col. 5, ll. 43-68)

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golds (U.S. Patent 5,356,417) as applied to claim 1 or 2 above, and further in view of Chopp, Jr. et al. (U.S. Patent 4,399,592).

- d. Concerning claim 3, Golds teaches the claimed invention including a locking mechanism with a wedging means, but does not teach the wedging means having a substantially spherical or cylindrical body. Chopp, Jr. et al. teaches a device used to encircle and hold objects together, that includes a band 26 and a locking mechanism 24 with a wedging means 28 that is substantially spherical for lockingly engaging the strap (see Abstract). The claim would have been obvious because the substitution of one known element, namely the locking mechanism of Golds, for another, the locking mechanism of Chopp, Jr. et al., would have yielded predictable results to one of ordinary skill in the art at the time of the invention. The predictable results being to lockingly engage the strap.
- e. Concerning claim 4, the wedging means of Chopp, Jr. et al. includes a roughened surface (col. 3, ll. 15-17).

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAY R. SIGLER whose telephone number is (571)270-3647. The examiner can normally be reached on Monday through Thursday from 8 AM to 4 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Yao can be reached on (571) 272-1224. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRS

/Sam Chuan C. Yao/  
Supervisory Patent Examiner, Art Unit 4111

<b>Notice of References Cited</b>	Application/Control No. 10/553,143	Applicant(s)/Patent Under Reexamination HANSEN, DORIS HJORTH	
	Examiner JAY R. SIGLER	Art Unit 4111	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,330,489 A	07-1994	Green et al.	606/151
*	B	US-5,383,905 A	01-1995	Golds et al.	606/74
*	C	US-6,302,889 B1	10-2001	Keller, Arnold	606/74
*	D	US-2004/0059357	03-2004	Koseki, Tomoaki	606/151
*	E	US-5,766,218	06-1998	Arnott, Richard J.	606/151
*	F	US-5,462,542	10-1995	Alesi, Jr., Thomas W.	606/151
*	G	US-299,540	06-1884	Herkimer, J.	24/171
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

JC20 Rec'd FGT/PTO 14 OCT 2009

C:\\1098.BFX

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /J.S

**From:** <PAIR\_eOfficeAction@uspto.gov>  
**To:** <patent@butzel.com>, <boudrie@butzel.com>  
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**Date:** 11/20/2008 6:53 AM  
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Application	Document	Mailroom Date	Attorney Docket No.
10529448	ISSUE.NTF	11/19/2008	113601-0220
10553143	1449	12/12/2007	133630-0003
	CTNF	12/12/2007	133630-0003
	892	12/12/2007	133630-0003

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